



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*86 Chambers Street, 3rd Floor
New York, New York 10007*

August 25, 2014

BY ECF

The Honorable Analisa Torres
United States District Judge
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street
New York, NY 10007

Re: *New York Times Company v. U.S. Department of Justice*,
14 Civ. 3776 (AT)

Dear Judge Torres:

We write respectfully on behalf of both parties in the above-referenced action, which is brought pursuant to the Freedom of Information Act, 5 U.S.C. § 552 ("FOIA"), in advance of the initial pretrial conference, which is scheduled for 4:00 p.m. on August 28, 2014, in order to provide the Court with an update on the parties' discussions regarding the processing of the documents at issue in this litigation.

As discussed more fully in the parties' joint letter, dated August 11, 2014, the plaintiffs seek seven classified reports issued by the Office of the Inspector General of the Department of Justice ("OIG") relating to the now-defunct President's Surveillance Program (the "Joint IG Report") as well as other "surveillance and data collection" (the "OIG Surveillance Reports"). See Complaint ¶¶ 9, 26. After additional discussions with the plaintiffs, the government proposes to complete processing of the responsive documents on the following schedule, with the plaintiffs' consent:

Tuesday, October 21, 2014 (60 days):

A Review of the Federal Bureau of Investigation's Use of National Security Letters (March 2007)

A Review of the FBI's Use of National Security Letters: Assessment of Corrective Actions and Examination of NSL Usage in 2006 (March 2008)

Thursday, November 20, 2014 (90 days):

A Review of the Federal Bureau of Investigation's Use of Exigent Letter and Other Informal Requests for Telephone Records (January 2010)

Monday, December 22, 2014 (120 days):

A Review of the Federal Bureau of Investigation's Use of Section 215 Orders for Business Records (March 2007)

A Review of the Federal Bureau of Investigation's Use of Section 215 Orders for Business Records in 2006 (March 2008 report)

Report on Activities Under Section 702 of the FISA Amendments Act of 2008 (September 2012)

Wednesday, February 18, 2015 (180 days):

Joint IG Report on President's Surveillance Program (July 2009)

With respect to potential briefing on the merits, as discussed in the parties' August 11, 2014, letter, in the absence of settlement, FOIA cases are generally determined on cross-motions for summary judgment. Once the government has completed its review and processing of the six OIG Surveillance Reports and the Joint IG Report, the parties will meet and confer to determine what withholdings, if any, plaintiffs intend to challenge. To the extent the parties are unable to settle and summary judgment motions are therefore necessary, the parties will submit a request for a pre-motion conference in accordance with the Court's individual practices within 14 days of the government's completion of its review and processing of the Joint IG Report.

Thank you for consideration of this letter.

Respectfully,

PREET BHARARA
United States Attorney

By: /s/ John Clopper
JOHN D. CLOPPER
EMILY DAUGHTRY
Assistant United States Attorneys
Telephone: (212) 637-2716 (Clopper)
Telephone: (212) 637-2777 (Daughtry)
Facsimile: (212) 637-0033
john.clopper@usdoj.gov
emily.daughtry@usdoj.gov

cc: (by email)
David McCraw, Esq.
D. Victoria Baranetsky, Esq.
Counsel for Plaintiffs